

**MINUTES  
REGULAR MEETING  
MUNICIPAL COUNCIL – BOROUGH OF RED BANK  
DECEMBER 8, 2010  
6:30 P.M.**

**PRESENT:** Mayor Menna and Council Members Lewis, Zipprich, DuPont, Horgan, Lee and Murphy.

**ALSO PRESENT:** Administrator Sickels, Municipal Clerk Borghi, Assistant Attorney Hall, Engineer Ballard and Chief Financial Officer Mason.

**ABSENT:** Attorney Pringle and Auditor Kaplan.

**SUNSHINE STATEMENT**

Mayor Menna requested the minutes reflect that, in compliance with Public Law 1975, Chapter 231 (Open Public Meetings Act), notice of this meeting has been provided by notifying the Asbury Park Press, the Two River Times and the Star Ledger and by placing a notice on the bulletin board and filing same with the Borough Clerk on January 3, 2010.

**SUSPEND REGULAR ORDER OF BUSINESS**

Councilman DuPont offered a motion to suspend the regular order of business, seconded by Councilwoman Horgan.

**ROLL CALL:**

**AYES:** Lewis, Zipprich, DuPont, Horgan, Lee, Murphy

**NAYS:** None

There being six ayes and no nays, the motion was declared approved.

Mayor Menna explained the Council would be considering Resolution No. 10-257 that could authorize a settlement in the Pending Litigation Encaptioned Red Bank YMCA vs. Borough of Red Bank. He asked that the record reflect that Councilman Michael DuPont and Assistant Attorney Hall were stepping down and that Special Counsel John Bonello was stepping in.

Special Counsel Bonello reviewed the history of the issue regarding the property known as 51 Monmouth Street noting that the matter had been heard before Judge Cavanaugh of the Chancery Division. He said a conference had been held to try to resolve the matter involving the claim by the YMCA that they held the property free and clear of any claims of the Borough and that they had the right to transfer the property to any purchaser including a for profit or commercial enterprise. He said the Borough took the position that the deed to the predecessor of the YMCA included a restriction of the use of the property for either a commercial enterprise or for profit entity. He added that they also took the position that the Statute that governed the transaction originally would be applicable as a matter of law. He said there was also a claim by the YMCA for approximately \$600,000 from the Borough based upon the Borough's contract with the predecessor to pay the reasonable value of the improvements that were done to the building as it impacted the attached firehouse. He said the claim was negotiated and an agreement was made to reduce that amount to \$125,000. Also, he continued, as part of the settlement, it was agreed that the property could be sold to Red Bank Catholic and that a deed to them would include a restriction against further sale to any for profit or commercial enterprise. He added that the agreement would also memorialize the 99 year lease for the firehouse at one dollar per year as well as the right of the Borough to maintain the monument in front and a restriction against the use of the property which would violate the historic significance and architectural presentation. He said they went before the court, explained the settlement and gave the judge an opportunity to review it and, on the record, he indicate he would approve the settlement and the transfer of the property to the proposed purchaser which was Red Bank Catholic. He said, based on that, he brought it back before the Council and suggested they advertise the proposed settlement with notice that the hearing on approval would be tonight and the matter could be closed.

Mayor Menna asked if the action would terminate any and all claims, cross claims and actions between the YMCA or any other entity and the Borough of Red Bank. Mr. Bonello said the it would and added that it would completely terminate the litigation, the claims between the parties, the claim for \$600,000 and make certain that the title to the property could never be transferred to a for profit or commercial enterprise. He added that he felt the agreement was favorable to all parties.

Mayor Menna asked if any members of the Council had any questions for Mr. Bonello. Councilman Zipprich asked if the deed to St. James would contain a restriction. Mr. Bonello said that it would. Councilman Zipprich asked for confirmation that they would need to come to the Council for permission before they could make changes to the outside of the building. Mr. Bonello said it would state that it could not be changed without approvals of the town and, because the historic significance of the architectural style, that the building should be preserved. Mayor Menna said it was his recollection that the building was on both the State and

National registries. He recalled a time twenty five years ago when State and Federal approval was required to fix the clock on the building. He conceded that anything could happen, but it was highly unlikely that changes could be made to the exterior of the building.

Mr. Bonello added that the \$125,000 payment to the YMCA would be payable over five years in equal installments of \$25,000. Councilman Zipprich asked for confirmation that the settlement amount had been reduced from \$600,000. Mr. Bonello confirmed that it was originally over \$600,000. Mayor Menna noted that that was a number the Borough had disputed and the final settlement was a result of the Borough's experts and engineers examining the accounting over the years.

Mayor Menna asked if there were any comments from the public.

Stephen Hecht—135 Branch Avenue—said he understood the Borough instituted the lawsuit. Mr. Bonello said that was incorrect, noting that the suit had been initiated by the YMCA seeking a declaratory judgment that they had the right to sell the property to anyone they wished. He said in the Borough's answer and counterclaim, they sought to reform the deed to include the restriction against commercial use.

Mr. Hecht said he understood the Borough had said the reverter clause was a matter of law. He asked if that meant it wasn't in the original agreement. Mr. Bonello said there were several agreements over a long period of time going back to 1999. He said the deed to KidsBridge did not include the reverter or the restriction. Mr. Hecht asked if that was unusual. Mr. Bonello said it was and it wasn't because there was case law that would indicate that the restriction would be read in as a matter of law but acknowledged that it would have been more appropriate to put it. He further explained that the matter was a complicated transaction where all of the parties were working together to try to save this architecturally prominent building. He said there were a lot of efforts to enable financing to get the work done which he understood to be about \$2 million.

Mr. Hecht said he understood that Mr. Bonello was saying that all the "T's" weren't crossed and the "I's" weren't dotted and that there was something defective about the original document. Mr. Bonello said it was not defective and that the statutory requirements could be read into it. Mr. Hecht asked for confirmation that the information was not in the document. Mr. Bonello said it was not in the actual deed. Mr. Hecht also asked if there were any money transferred from the Borough to the YMCA, KidsBridge or any other entity before during or after these transactions. Mayor Menna said there were sums of money paid before the litigation. Administrator Sickels disagreed. Mayor Menna clarified that there were sums of money put toward the project. Mr. Sickels said those sums were paid when the building was still owned by the Borough for some preliminary interior demolition work to allow for architectural review and preparation of plans and specs as part of an application for a historic trust grant. He added that the Borough was credited with those payments and the \$125,000 in the settlement was for monies expended post possession by the Children's Cultural Center, and subsequently absorbed by the YMCA, for renovations to the firehouse and owed as per the lease agreement. He noted that no monies were paid from the time of the initial expenditure to this point.

Mr. Hecht said it was his understanding that the Borough's response to the suit was that the YMCA had no right to sell the building and that it should come back to the Borough. He asked how the Borough got from that position to the resolution presented at this meeting. Mr. Bonello said that was not quite right and clarified that the Borough's response was that the YMCA could sell it with Borough approval to a similar educational facility. He said they sought to include in the record and reform the original deed to include a restriction against alienation to a for profit or commercial enterprise. He said they did not seek a rescission.

Mr. Hecht asked for a definition of the word "rescission." Mr. Bonello explained that a rescission would reverse the original deed and return the property to the Borough.

Steve Fitzpatrick—Hudson Avenue—questioned a potential conflict of interest regarding Councilman Murphy due to the fact that he had once done work on the building. Mr. Fitzpatrick noted that he had stepped down in the past. Mayor Menna said he believed Councilman Murphy had reviewed the issue with Counsel. Special Counsel Bonello confirmed that he had gone over the issue with Councilman Murphy and said he did not see a conflict. Administrator Sickels added that he believed the work done by Councilman Murphy was done before he was on Council and prior to the building being transferred to the Children's Cultural Center. Mr. Fitzpatrick noted the Mr. Murphy had erred on the side of caution on a prior occasion and had elected to step down. Councilman Murphy said he only stepped down at one meeting before he clarified with the Attorney. Mr. Fitzpatrick asked that it be noted in the record that he felt there was a conflict of interest issue and he was requesting that Councilman Murphy step down. Special Council Bonello again stated that Councilman Murphy did not have a conflict. Mayor Menna said Mr. Fitzpatrick was raising a point of order and putting his objection on the record. Mr. Bonello said any conflict was remote and nothing significant that would raise questions to Councilman's Murphy's independent thought or fiduciary duty to the town.

Mr. Fitzpatrick asked Mr. Bonello about the potential for conflict if there were any members of the Council that were parishioners of St. James Catholic Church or that had attended Red Bank Catholic or were members of the Community YMCA. Mr. Bonello said he felt the fact that someone may have attended those schools years ago and did not have a present relationship with the entity would not give rise to a conflict.

Councilwoman Lee told Mr. Fitzpatrick that they were all elected officials and were trying to make a decision and do what the people had asked them to do which was work on problems such as these with the best interest of the Borough at heart. She took issue with what she called the personal inquisition that Mr. Fitzpatrick put them through.

Mr. Fitzpatrick said he came forward with these questions because it was the only opportunity a resident has to bring questions to the Council to get legitimate, correct and transparent answers. He then asked Mr. Bonello about when the matter was read into the record before Judge Cavanaugh. He said Mr. Bonello had stated this matter would be conducted in accordance with the Title 40A statute which was the power to waive restrictions. Mr. Bonello said that was not correct. He said there was a reference to that Statute which the Judge recognized as being something that the Borough would have authority to do but it was not a proceeding brought under that. He added that the Judge had said they should come back and have a public hearing as to the proposed settlement and the prospective transfer. Mr. Fitzpatrick offered to provide a copy of the statute. Mr. Bonello said he did not need it adding that he was familiar with the statute. Mayor Menna asked Mr. Fitzpatrick to mention for the record which statute he was quoting from. Mr. Fitzpatrick said it was NJSA 40:60-51.2. He also said he recalled from listening to the tape of the proceeding that both Mr. Bonello and the attorney for the YMCA concurred that the process and the public hearing would be conducted within the confines of that particular statute and he said Judge Cavanaugh acknowledged that on the record.

Mr. Fitzpatrick said the statute stated that proper notice should have been given to the public at least two weeks prior to the conducting of the public hearing. He said the notice published in the newspaper the previous Saturday did not comply with that requirement. He said the notice also failed to properly identify the property by both address and block and lot. Mr. Bonello asked Mr. Fitzpatrick if he had a problem understanding the intent or if he was confused by the notice. Mr. Fitzpatrick responded that he felt if a piece of land was going to be conveyed under the Constitution of the State of New Jersey, the Statute should be adhered to. Mr. Bonello said this was not a hearing to convey property and that the reference to the Statute was by the judge referring to it as giving the authority to have the transaction settled. He said the matter was pursuant to a court order giving notice of a proposed settlement and was not an ordinance transferring property. He added that the property was transferred ten years ago and this was simply a hearing to approve a settlement in court which authorized the settlement which involved the imposition of a restriction in record of title. He said there would also be a transfer to another non profit entity. Mr. Fitzpatrick said “we” have an interest in this property by way of the reverter clause which was stated in Mr. Bonello’s defense as a matter of law. He said any action taken tonight was a further continuance of the conveyance of the property and he respectfully disagreed with this opinion. He said he would like it noted for the record that he felt proper notice was not given for the public hearing.

Mayor Menna said he thought Mr. Fitzpatrick’s argument was relying on 40:60-51.5 and Mr. Bonello was saying that Statute was not applicable because it was not an actual transfer of property but the settlement of a legal matter.

Councilwoman Lewis asked if the Statute being referred to was 51.2 or 51.5. Mayor Menna said it was 51.5. Mr. Fitzpatrick said he was using 51.2 because that was what was referenced in the court record. Mayor Menna said the other Statute was more specific. Mr. Fitzpatrick said the Statute that was in the court record discussed the power to waive restrictions and that that should be done through the proper procedure. He again stated that the blurb in the paper on Saturday and a meeting five days later was not duly noted public notice. He said people in the audience may be interested in what the terms of the agreement were but it was not provided. He also said Mayor Menna had promised they would be provided with that. Mayor Menna agreed that he had said that. Mr. Fitzpatrick said they public did not know what was in that agreement and the Council was about to proceed with the further conveyance of the property with no consideration to what the taxpayers will be receiving for the \$1 transfer. He added that just because the matter was mishandled ten years ago, that did not relinquish the Borough’s interest in the property. He also said, if the Council proceeded with the action, the town would lose all control over the property. He said regardless of whether or not there was a restriction against selling it to a for profit use, it would not be available for public use. He also noted that, under the original statute, sale to Red Bank Catholic would not have been allowed.

Mr. Bonello said Mr. Fitzpatrick was saying that the reverter clause should be in there and noted that part of the settlement was to only have the restriction rather than the reverter. The reason for that, he continued, was that, if the Borough were to get a rescission of the original transaction and get the property back, the Borough would not be receiving the property in the condition that it was ten years ago but after two to three million dollars in improvements. He said the law would require that the Borough make the party whole that was giving it back which would require the payment of the amount they reasonably put into the building because the Borough was getting the benefit of it. He said it was his opinion the Borough would be subject to that requirement particularly if the other party did not do anything wrong in the original transaction.

Mr. Fitzpatrick asked why the Borough was not requiring that the reverter clause remain in tact as part of the settlement. Mr. Bonello said he felt the purpose of the transfer would be protected as long as there is a restriction against its transfer to anyone else.

Mr. Fitzpatrick said the original Title 40A:12-21 and all of the language that spoke to giving property for a dollar was with the intent of maintaining a public purpose. He said that was the reason the Statute was carved out of the State constitution to begin with. Mr. Bonello said it had to be taken in the context of the litigation and the chance that the Borough could have lost based on what had happened in the past. He said the judge recognized the possibility, he recognized the possibility and the attorneys for the YMCA recognized the possibility that the Borough could have lost and the property could have been transferred to anybody because of the absence of the original reverter and restriction. He said ten years going by and the borrowing and investment of money gave rise to a reliance that they may have had a problem with. He also said the compromise took into consideration the efforts made by both sides to straighten the matter out. He noted the

result was the property would not go to a private entity or a for profit, but would be preserved for its original purpose of education. He said they also accomplished the restriction that the property could not be changed which was also the original purpose. Mr. Sickels noted that it also preserved the Borough's right to maintain the war memorial and the 99 year lease on the firehouse.

Mr. Fitzpatrick said the education use Mr. Bonello was referring to regarding Red Bank Catholic fell into the realm of a religious organization and would have been allowed in the original conveyance for one dollar. He said the Council would be taking action to remove the Borough's interest in the property and the taxpayers would not be compensated for it.

Mr. Bonello said it was relinquished ten years ago when it was transferred to KidsBridge for one dollar. He said the only issue was, what would be the future use of the building which was what this litigation preserved and protected so the building would not be commercialized.

Mayor Menna asked Mr. Fitzpatrick what he thought the different was between the proposed and agreement and the agreement the Borough had had for fifteen years with Red Bank Catholic regarding use of the athletic field. Mr. Fitzpatrick said that was apples and oranges because this matter was regarding a conveyance of property. He said the matter with the athletic field was a lease and was triangular with the Board of Education. He also noted that at the time of the original 1999 ordinance, the deed restriction, the reverter clause and all the statutory language was included. Subsequently, he continued, another ordinance was drafted without the language. He again noted that the State constitution would not allow a municipal corporation to convey the property without just compensation. He said he sees money has been given away, more money was going to be given away and the town was racking up legal fees. He said there would not even be a public use retention one the matter was finalized.

Mr. Sickels questioned why Mr. Fitzpatrick didn't make the same arguments ten to twelve years ago. He also reviewed the history noting that the Borough had moved out of 51 Monmouth Street and 32 Monmouth Street to consolidate operations into one location because architectural review thought those two buildings couldn't be upgraded to meet the Borough's needs and ADA compliance. He said the Borough spent quite a bit of money to consolidate services at 90 Monmouth Street. He also noted that 51 Monmouth Street was in such poor condition that the court clerks had umbrellas in their offices to protect themselves when it rained. He said the Borough could not make improvements to the building without following historical guidelines. He said the highest and best use recommended by the architect after appraising it at \$199,000 was sale and demolition. He said they were faced with the dilemma that everyone who was interested in purchasing the property planned to tear it down and the Borough was seeking a way to preserve the architecturally significant and historic building, preserve the firehouse and the war memorial and bring the property to a good use. He said KidsBridge came looking for a tax exempt location in town to build a cultural center/children's museum and Borough Officials thought it might be a good way to save the building. He said the money that was expended was to try to get funding to do the renovations and they started seeing cost going up and up and finally some Red Bank citizens got together and formed their own non-profit corporation to do the renovations, to meet the goals of the Borough, preserve the historic building and the war memorial, keep the firehouse and renovate the building so it would be usable. He further explained that the Borough had applied for the historic trust grants and had a historic architect from Princeton doing the specifications. Finally, he continued, it got so costly, the non-profit couldn't get it done and decided to go on their own without historic trust funds. He said they were able to arrange private financing, keep the public purpose and renovate it historically, but they were concerned about the covenants. He said now it was ten to twelve years later and the building has seen \$2-3 million in improvements including renovations to the firehouse. He also noted that the parties have come to an agreement where the Borough is paying for work that was done at the firehouse and the lease for that portion of the building is preserved for 99 years, it will be used for a public purpose, the war memorial is preserved as is the firehouse parking lot and the architecturally significant structure is preserved. He said they have also agreed to let the Borough use it when scheduling allows. He asked Mr. Fitzpatrick where the public was not being protected.

Councilman Zipprich asked Mr. Fitzpatrick about when he used to work for the Borough and if he had worked in that building. Mr. Fitzpatrick said he did not work in the building. Mayor Menna noted that the building being discussed was the Police Station and the Municipal Court. Mr. Fitzpatrick said if one went back to the original 1999 ordinance, there were a lot of restrictions placed on the transaction including that KidsBridge was supposed to file annual reports and the cost of the renovation was not to exceed \$800,000, a figure he said was dropped from \$1 million. He questioned who let the figure rise to \$2-3 million. Mr. Sickels said it was the Children's Cultural Center and the reason it became \$800,000 was because that was the amount the Borough has discussed loaning to them but decided not to. He said as obstructions came up, they dealt with it in an effort to save the building and, he pointed out, it did get saved. He said the Children's Cultural Center had the several community partners, secured private donations and held fund raisers, which he noted Mr. Fitzpatrick had participated in. Mr. Fitzpatrick acknowledged that they were able to raise \$1.2 million. Mr. Sickels again pointed out the renovations were not done a Borough expense and the settlement would have the Borough paying only for renovations done to the firehouse. Mr. Fitzpatrick noted that, at any time, the Borough could opt out of the lease and doubted if it would remain in effect for 99 years. He also said he felt the war memorial could be relocated. He also said he was sure that, in the terms and conditions of the settlement, the Borough was stating that there would remain some type of public use and asked Mayor Menna what that was.

Mayor Menna said he felt Mr. Fitzpatrick had raised a good point on the interpretive issue regarding 40:60-51.5 and felt the question called for a legal determination. He suggested the Council adjourn to consult with the attorney.

10-261                The Attorney read a resolution to adjourn to executive session to discuss litigation.

Councilman Murphy offered a motion to adjourn to executive session to discuss litigation, seconded by Councilman Zipprich. Minutes to be made public in 180 days.

ROLL CALL:

AYES:                Lewis, Zipprich, Horgan, Lee, Murphy

NAYS:                None

There being five ayes and no nays, the motion was declared approved.

Councilman Zipprich offered a motion to adjourn from executive session, seconded by Councilman Murphy.

ROLL CALL:

AYES:                Lewis, Zipprich, Horgan, Lee, Murphy

NAYS:                None

There being five ayes and no nays, the motion was declared approved.

Mayor Menna asked that roll be called as the Council returned from Executive Session.

PRESENT:           Mayor Menna and Council Members Lewis, Zipprich, DuPont, Horgan, Lee and Murphy.

ALSO PRESENT:     Administrator Sickels, Municipal Clerk Borghi, Special Counsel Bonello, Engineer Ballard and Chief Financial Officer Mason.

Mayor Menna noted that Councilman DuPont had not participated in the Executive Session and had excused himself as the Council returned from Executive Session due to a family matter.

Mayor Menna explained that the Council had gone into Executive Session to review the matter being discussed since it called for a legal interpretation of the Statute regarding the Borough's rights and obligations. He asked Mr. Bonello to clarify. Mr. Bonello said the purpose of the hearing was to consider the approval, not of a transfer, but of a settlement of litigation. He said several Council members had expressed concern about the notice and the Council feels that, because of the nature of the settlement and the significance to the Borough, they want as much dissemination of the information in the proposal to the public as possible. Therefore, he continued, the Council will be adjourning the hearing and renoticing so that everyone who is interested will have any opportunity to participate.

10-257                Mayor Menna read, "A Resolution Authorizing Settlement in the Pending Litigation Encaptioned Red Bank YMCA vs. Borough of Red Bank, Docket No. MON-C-170-09."

Mayor Menna called for a motion to adjourn the matter in order to renotice.

Councilman Murphy offered a motion to adjourn the resolution, seconded by Councilman Zipprich.

ROLL CALL:

AYES:                Lewis, Zipprich, Horgan, Lee, Murphy

NAYS:                None

There being five ayes and no nays, the ordinance was declared adjourned pending renotice.

Special Counsel Bonello stepped down. Assistant Attorney Hall stepped back in.

## **RESUME REGULAR ORDER OF BUSINESS**

Councilman Murphy offered a motion to resume the regular order of business, seconded by Councilwoman Lewis.

ROLL CALL:

AYES: Lewis, Zipprich, Horgan, Lee, Murphy

NAYS: None

There being five ayes and no nays, the motion was declared approved.

## **WORKSHOP**

### **Anti-Bullying Legislation**

Councilman Zipprich said spoke of the issue teen suicide and bullying. He said it was a personal matter for him and spoke of the effect the issue has on families particularly during the holidays. He thanked Senator Beck, Assemblywoman Cassagrande and Assemblyman O'Scanlon for their support of anti-bullying legislation. He reviewed several recent cases and the lack of support of some school districts. He asked everyone to encourage the 12<sup>th</sup> District legislators to urge the Governor to sign the bill they recently passed and to encourage New Jersey's representatives to pass acts nationally that would save the lives of our kids at risk. He asked his fellow Councilmembers to seriously consider the resolution he was bringing forward at this meeting in support of anti-bullying legislation.

Mayor Menna thanked him for his eloquent summary and said, unless there was an objection, he would add the resolution to the agenda.

## **APPROVAL OF MINUTES – November 22, 2010**

Councilman Murphy offered a motion to approve the minutes, seconded by Councilwoman Lee.

ROLL CALL:

AYES: Lewis, Zipprich, Horgan, Lee, Murphy

NAYS: None

There being five ayes and no nays, the minutes were declared approved.

## **MAYORAL APPOINTMENTS**

None.

## **REPORTS OF MAYOR AND COUNCIL MEMBERS**

Councilman Murphy reported that he had attended the Fire Department Chief election the night before and noted that T.D. Doremus had been elected at Second Deputy Fire Chief, Josh Sanders as First Deputy and John Mego as Fire Chief for 2011. He said they would be sworn in on January 1. He said the event was well attended and everyone had a good time.

Mayor Menna thanked Councilman Murphy and the other Council members who supported the volunteers at the wake for ex-Chief Carhart.

Councilwoman Lee asked everyone to keep an eye on the Borough's website. She said there were a lot of activities happening in the Borough and those that were sponsored by the Borough would be on the website. She encouraged everyone to participate and support Downtown Red Bank when they were shopping.

Councilwoman Horgan reported that, the previous Saturday, the Greater Red Bank NAACP had honored Councilwoman Juanita Lewis at a luncheon at Fort Monmouth where she was presented with a public service award by Mayor Menna. She said Red Bank residents Rosemary Kopka and Linda Clark were also honored at the event. She said she had also attended the Westside Christmas Tree Lighting later that day along with Mayor Menna and Councilwoman Lewis as well as the Menorah Lighting at the Train Station on Sunday.

Councilwoman Lewis reported that the Parks and Recreation Council Committee had met on December 1 and had a member of the Parks and Recreation Advisory Committee in attendance. She said the major discussion was maintenance of the fields and some action items were identified for the Director of Public Works and the Director of Parks and Recreation. She said they were also working on updating the ordinances. She said she also wanted to announce that the Holiday Home Decorating Contest was underway with prizes being awarded in three categories at the December 22, 2010 Council meeting.

Councilman Zipprich reported that he had met with representatives of the Monmouth County Regional Health Commission regarding services for the new year and had also attended RiverCenter's annual awards meeting. He said he had participated in the Safe Route to School meeting the previous Monday and commended the group on their presentation.

Councilwoman Horgan noted that the Steering Committee of the group will be meeting on December 13.

## **COMMUNICATIONS AND PETITIONS**

Mayor Menna read requests from Habcore, Inc. and Court Fulgens Corona 1684 Catholic Daughters of the Americas for raffle licenses.

Councilman Zipprich offered a motion to approve the requests, seconded by Councilwoman Horgan.

ROLL CALL:

AYES: Lewis, Zipprich, Horgan, Lee, Murphy

NAYS: None

There being five ayes and no nays, the requests were declared approved.

## **PUBLIC COMMENT ON RESOLUTIONS ON THE AGENDA AND ORDINANCES ON THE AGENDA ON FIRST READING**

No one appeared.

### **ORDINANCES – First Reading**

2010-40 Mayor Menna read, “AN ORDINANCE AMENDING THE AUTHORIZATION OF SANDWICH BOARD SIGNS.”

Mayor Menna explained that the Council had previously adopted an ordinance allowing for Sandwich Board Signs and noted that it had a sunset provision for December 31, 2010. He said this ordinance would extend the exploratory time period to December 31, 2011 for the Council to review the policy.

Councilman Zipprich noted that there were only a few applicants so there was no cluttering of the walkways which he said had been a concern of some Council members. He said he supported the extension to give the merchants more time to take advantage of the opportunity

Councilman Zipprich offered a motion to adopt the ordinance on first reading, seconded by Councilman Murphy.

Councilwoman Horgan asked if it was known what the results were for those who had put out the signs. Councilman Zipprich said those that have them have reported the signs had brought people in off of the street.

ROLL CALL:

AYES: Lewis, Zipprich, Horgan, Murphy

NAYS: Lee

There being four ayes and one nay, the ordinance was declared adopted on first reading.

Public hearing and final adoption scheduled for December 22, 2010.

### **ORDINANCES – Public Hearing & Final Adoption**

2010-38 Mayor Menna read, “AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER XX, “WATER AND SEWER,” SECTION 20-5, “PENALTIES.”

Mayor Menna opened the public hearing and asked if anyone would like to speak.

No one appearing, Councilman Murphy offered a motion to close the public hearing, seconded by Councilwoman Horgan.

ROLL CALL:

AYES: Lewis, Zipprich, Horgan, Lee, Murphy

NAYS: None

There being five ayes and no nays, the public hearing was declared closed.

Councilman Zipprich offered a motion to adopt the ordinance on final reading, seconded by Councilman Murphy.

ROLL CALL:

AYES: Lewis, Zipprich, Horgan, Lee, Murphy

NAYS: None

There being five ayes and no nays, the ordinance was declared adopted on final reading.

2010-39 Mayor Menna read “AN ORDINANCE AUTHORIZING SPECIAL ASSESSMENTS FOR SEPTIC TANK REMOVAL AND SEWER IMPROVEMENTS FOR CERTAIN BENEFITED PROPERTIES ON LOCUST AVENUE.”

Mayor Menna opened the public hearing and asked if anyone would like to speak.

No one appearing, Councilman Murphy offered a motion to close the public hearing, seconded by Councilman Zipprich.

ROLL CALL:

AYES: Lewis, Zipprich, Horgan, Murphy

NAYS: Lee

There being five ayes and no nays, the public hearing was declared closed.

Councilman Murphy offered a motion to adopt the ordinance on final reading, seconded by Councilman Zipprich.

ROLL CALL:

AYES: Lewis, Zipprich, Horgan, Murphy

NAYS: Lee

There being four ayes and one nays, the ordinance was declared adopted on final reading.

#### **ORDINANCES – Final Adoption**

2010-22 Mayor Menna read, “AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER XXV, PLANNING AND DEVELOPMENT REGULATIONS, SECTION 25-5.32, “TRAIN STATION DESIGN DISTRICT REGULATIONS,” SECTION 10.14, “REGULATIONS CONTROLLING BUSINESS RESIDENTIAL-1 DISTRICT,” SECTION 10.19, “REGULATIONS CONTROLLING BUSINESS RESIDENTIAL-2 DISTRICT,” SECTION 10.22, “REGULATIONS CONTROLLING THE TRAIN STATION OVERLAY DISTRICT.”

Councilwoman Horgan offered a motion to withdraw the ordinance, seconded by Councilman Zipprich.

ROLL CALL:

AYES: Lewis, Zipprich, Horgan, Lee, Murphy

NAYS: None

There being five ayes and no nays, the ordinance was declared withdrawn.

Councilman Zipprich said he and Councilwoman Lee had tabled that matter on previous occasions and asked that it be returned to the Planning Board for further review. He said the Board was waiting for input from RiverCenter which had not yet been received. He said that was why it was being withdrawn and it would be revisited in the new year.

#### **RESOLUTIONS**

10-252 Mayor Menna read “A RESOLUTION AUTHORIZING ACCEPTANCE OF PERFORMANCE GUARANTEES AND INSPECTION ESCROW REGARDING PILGRIM BAPTIST CHURCH, 172 SHREWSBURY AVENUE, BLOCK 67, LOTS 20, 21.01, 23.04, 25 AND 25.01.”

Councilman Murphy offered a motion to approve the resolution, seconded by Councilman Zipprich.



ROLL CALL:

AYES: Lewis, Zipprich, Horgan, Lee, Murphy

NAYS: None

There being five ayes and no nays, the resolution was declared approved.

10-253 Mayor Menna read “A RESOLUTION REQUESTING SPECIAL ITEM OF REVENUE (2010 BODY ARMOR REPLACEMENT FUND).”

Councilman Murphy offered a motion to approve the resolution, seconded by Councilwoman Lee.

ROLL CALL:

AYES: Lewis, Zipprich, Horgan, Lee, Murphy

NAYS: None

There being five ayes and no nays, the resolution was declared approved.

10-254 Mayor Menna read “A RESOLUTION REQUESTING SPECIAL ITEM OF REVENUE (2010 COPS IN SHOPS).”

Councilman Murphy offered a motion to approve the resolution, seconded by Councilwoman Lee.

ROLL CALL:

AYES: Lewis, Zipprich, Horgan, Lee, Murphy

NAYS: None

There being five ayes and no nays, the resolution was declared approved.

10-255 Mayor Menna read “A RESOLUTION AUTHORIZING AN AMENDMENT TO THE PARTICIPATION AND CONTRIBUTION AGREEMENT BETWEEN THE BOROUGH OF RED BANK AND ST. JAMES CATHOLIC CHURCH (RED BANK CATHOLIC HIGH SCHOOL) RELATED TO THE COUNT BASIE ATHLETIC FIELDS.”

Mayor Menna noted that this was pursuant to the Borough’s agreement with Red Bank Catholic and would call for an increase in the rental payment. Assistant Attorney Hall clarified that the payment would increase from \$55,000 to \$80,000. He said, in addition to the rent, Red Bank Catholic would be paying \$150,000 over three years.

Councilwoman Lewis offered a motion to approve the resolution, seconded by Councilman Zipprich.

ROLL CALL:

AYES: Lewis, Zipprich, Horgan, Lee, Murphy

NAYS: None

There being five ayes and no nays, the resolution was declared approved.

10-256 Mayor Menna read “A RESOLUTION SUPPORTING THE *OVER THE LIMIT UNDER ARREST 2010 YEAR END CRACKDOWN*.”

Councilman Murphy offered a motion to approve the resolution, seconded by Councilwoman Horgan.

ROLL CALL:

AYES: Lewis, Zipprich, Horgan, Lee, Murphy

NAYS: None

There being five ayes and no nays, the resolution was declared approved.

10-258 Mayor Menna read “A RESOLUTION AUTHORIZING TRANSFER OF 2010 CURRENT FUND APPROPRIATIONS.”

Councilwoman Lewis offered a motion to approve the resolution, seconded by Councilwoman Horgan.

ROLL CALL:

AYES: Lewis, Zipprich, Horgan, Lee, Murphy

NAYS: None

There being five ayes and no nays, the resolution was declared approved.

10-259 Mayor Menna read “A RESOLUTION AUTHORIZING SPECIAL EMERGENCY NOTES IN AN AMOUNT NOT TO EXCEED \$750,000 TO FUND CONTRACTUALLY REQUIRED SEVERANCE LIABILITIES RESULTING FROM THE RETIREMENT OF BOROUGH EMPLOYEES.”

Councilwoman Lee offered a motion to approve the resolution, seconded by Councilwoman Horgan.

ROLL CALL:

AYES: Lewis, Zipprich, Horgan, Lee, Murphy

NAYS: None

There being five ayes and no nays, the resolution was declared approved.

10-260 Mayor Menna read “A RESOLUTION SUPPORTING ANTI-BULLYING LEGISLATION.”

Councilman Zipprich offered a motion to approve the resolution, seconded by Councilwoman Horgan.

ROLL CALL:

AYES: Lewis, Zipprich, Horgan, Lee, Murphy

NAYS: None

There being five ayes and no nays, the resolution was declared approved.

## **PROCLAMATIONS**

None.

## **PAYMENT OF VOUCHERS**

10-262 Mayor Menna read “A RESOLUTION FOR PAYMENT OF BILLS AMOUNTING TO \$3,821,940.86.”

Councilwoman Lewis offered a motion to approve the resolution, seconded Councilwoman Horgan.

ROLL CALL:

AYES: Lewis, Zipprich, Horgan, Lee, Murphy

NAYS: None

There being five ayes and no nays, the resolution was declared approved.

## **OLD BUSINESS**

None.

## **NEW BUSINESS**

None.

## **AUDIENCE**

Ben Forrest—16 Locust Avenue—said he and his wife had come to speak on the issue of the property at 51 Monmouth Street and, while he supported the decision to adjourn the matter, he didn’t know if he would be able to attend the meeting where it would be considered.

Mayor Menna said he was welcome to speak on the matter, but the Council would not address the issue.

Mr. Forrest said he thought the 10 year old project had been a mess and noted he wasn’t happy with the KidsBridge organization when it was in place. He said he felt the building was part of the town architecturally

and said it seemed incredible to him that the town would be paying money to get rid of it. He said he would rather have it go into private hands and back on the tax roles as long as the historic elements were protected. He said he didn't see a lot of detail regarding Red Bank Catholic's commitment to offer the building for public use. He said he said he was uncomfortable with the Borough handing the property over to a religious or political organization. He added that he realized it wasn't a direct hand off and said there were clearly mistakes made a long time ago but the net effect was, for the price of one dollar, it would become the property of a religious organization. He said he applauded the action of waiting to give the public more time to review the details.

## **EXECUTIVE SESSION**

10-263                The Attorney read a resolution to adjourn to executive session to discuss contract negotiations.

Councilman Murphy offered a motion to adjourn to executive session to discuss contract negotiations, seconded by Councilman Zipprich. Minutes to be made public in 180 days.

### **ROLL CALL:**

AYES:                Lewis, Zipprich, Horgan, Lee, Murphy

NAYS:                None

There being five ayes and no nays, the motion was declared approved.

Councilwoman Horgan offered a motion to adjourn from executive session, seconded by Councilman Zipprich.

### **ROLL CALL:**

AYES:                Lewis, Zipprich, Horgan, Lee, Murphy

NAYS:                None

There being five ayes and no nays, the motion was declared approved.

## **ADJOURNMENT**

Councilwoman Horgan offered a motion, seconded by Councilman Zipprich to adjourn the meeting.

### **ROLL CALL:**

AYES:                Lewis, Zipprich, Horgan, Lee, Murphy

NAYS:                None

There being five ayes and no nays, the motion was declared approved.

Respectfully submitted,

Pamela Borghi